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**AUG 08 2005**

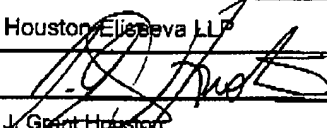
PTO/SB/21 (09-04)

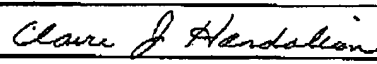
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b>  <small>(to be used for all correspondence after initial filing)</small>	Application Number	09/885,226	
	Filing Date	June 20, 2001	
	First Named Inventor	Robert L. Payer	
	Art Unit	2839	
	Examiner Name	Hyeon, Hae M.	
Total Number of Pages in This Submission	4	Attorney Docket Number	1065us

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks _____		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Houston Eliseeva LLP	
Signature		
Printed name	J. Grant Houston	
Date	August 8, 2005	Reg. No. 35,900

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:		
Signature		
Typed or printed name	Claire J. Handalian	Date August 8, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (12-04v2)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4618).

# **FEE TRANSMITTAL**

## **For FY 2005**

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 60

**Complete if Known**

Application Number 09/885,226  
Filing Date June 20, 2001  
First Named Inventor Robert L. Payer  
Examiner Name Hyeon, Hae M.  
Art Unit 2839  
Attorney Docket No. 1085us

**METHOD OF PAYMENT (check all that apply)**

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):  
☒ Deposit Account Deposit Account Number: 501547 Deposit Account Name: Axsun Technologies, Inc.  
For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)  
☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee  
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims Extra Claims Fee (\$)

- 20 or HP = x = Fee Paid (\$)

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims Extra Claims Fee (\$)

- 3 or HP = x = Fee Paid (\$)

HP = highest number of independent claims paid for, if greater than 3.

08/10/2005 MBINAS 00000035 501547 09885226  
01 FC:2251 60.00 DA

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$)

- 100 = / 50 = (round up to a whole number) x = Fee Paid (\$)

**4. OTHER FEE(S)**


Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Extension for response within first month

Fees Paid (\$)

60

**SUBMITTED BY**

Signature  Registration No. 35,900 Telephone 781-863-9991  
Name (Print/Type) J. Grant Houston Date August 8, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: Robert L. Payer, *et al.*

Serial No: 09/885,226

Group: 2839

Filed: June 20, 2001

Examiner: Hyeon, Hae M.

For: Solid-Phase Welded Optical  
Element Attach Process

Confirmation No: 4417

Date: August 8, 2005

**THIRD REQUEST TO REINSTATE APPEAL**

VIA FACSIMILE: 671-273-8300  
Mail Stop Appeal Brief- Patents  
Assistant Commissioner for Patents  
P.O. Box 1450,  
Alexandria, Virginia 22313-1450

Sir:

The Supplemental Appellants' Brief filed on April 22, 2004 included a request to reinstate the appeal pursuant to 37 C.F.R. 1.193(b) (2) (ii). Subsequently, a third Final Office Action was issued on June 22, 2004.

In response, Appellants' filed a second Request to Reinstate Appeal as it is counsel's understanding that, pursuant to 37 C.F.R. 41.39(b) (2), that this application should be before the Board.

In response to Appellants' Second Request to Reinstate Appeal, still another Office Action was issued. In response, Appellants request that the appeal be maintained.

The rules do not provide for such Actions. The rules certainly do not afford Appellants the right to respond to such Office Actions after appeal and after the filing of a Request to Maintain Appeal pursuant to 37 C.F.R. 41.39(b) (2), nor should the rules provide for such extension of prosecution in an application potentially subject to term extension. Moreover, the entire process of continuing to issue Office Actions after the Appellants have paid for the appeal and thrice requested review by the Board seems

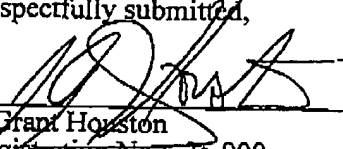
8 August 2005  
Application No.: 09/885,226  
Docket: 1065.us

unfair. Appellants simply cannot justify the expense of filing an entirely new appeal and Brief for this application. They thus request review by the Board.

This Application should be before the Board of Appeals.

Should any questions arise, please contact the undersigned.

Respectfully submitted,

By   
J. Grant Houston  
Registration No.: 35,900  
Axsun Technologies, Inc.  
Tel.: 978-439-3479  
Fax: 978-262-0035

Billerica, MA 01821  
Date: August 8, 2005